REMARKS

The present application was filed on January 5, 2001 with claims 1-22. Claims 1-22 remain pending and claims 1, 10, 21 and 22 are the pending independent claims.

In the outstanding Office Action dated December 9, 2003, the Examiner: (i) rejected claims 1, 9, 10 and 18-22 under 35 U.S.C. §103(a) as being unpatentable over IBM "New Features in Tivoli Software Distribution 3.6" by Stefan Uelpenich et al. (hereinafter "Uelpenich"), in view of U.S. Patent No. 5,581,764 to Fitzgerald et al. (hereinafter "Fitzgerald") and U.S. Patent No. 6,199,204 to Donohue (hereinafter "Donohue"); (ii) rejected claims 2 and 11 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue and U.S. Patent Application Publication No. 2002/0133814 A1 to Bourke-Dunphy et al. (hereinafter "Bourke-Dunphy); (iii) rejected claims 3, 4, 8, 12, 13 and 17 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue, Bourke-Dunphy and U.S. Patent Application Publication No. 2002/0144248 A1 to Forbes et al. (hereinafter "Forbes); (iv) rejected claims 5 and 14 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue, and U.S. Patent No. 6,484,247 to Gendron et al. (hereinafter "Gendron"); and (v) rejected claims 6, 7, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue and U.S. Patent No. 5,960,189 to Stupek, Jr. et al. (hereinafter "Stupek").

With regard to the rejection of claims 1, 9, 10 and 18-22 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald and Donohue, Applicants assert that such claims are patentable for at least the reasons that independent claims 1, 10, 21 and 22, from which claims 9 and 18-20 directly depend, are patentable.

Independent claim 1, recites a method of performing automated distribution of a software package to one or more target machines in one or more regions of a distributed network of target machines. A base software package is prepared for the regions based on at least one of the following: policy data indicating which of the regions are candidates for receiving the software package; dependency information indicating requisites for service provided by the software package; and configuration information for each of the candidate regions. The base software package is distributed to each candidate region and customized at each of the candidate regions based on the one or more software package preparation options. The customized software package is distributed

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to at least one target machine. Independent claim 10 recites a corresponding system claim and independent claims 21 and 22 recite corresponding article of manufacture claims.

Regarding the preparation of a base software package for one or more regions, the combination of Uelpenich, Fitzgerald and Donohue fails to disclose each of the three preparation techniques. First, the combination of Uelpenich and Fitzgerald, as proposed by the Examiner, fails to disclose the preparation based on policy data indicating which of the regions are candidates for receiving the software package. Fitzgerald discloses the grouping of desktops so that a first set of resources may be issued to a first group and a second set of resources may be issued to a second group. Thus, in Fitzgerald, the same resources are assigned to all desktops in a specified group because the desktops are grouped according to resource allocation. The present invention recites regions having one or more target machines which are to receive the software package. The target machines are not re-grouped according to resource needs, but maintain their original regional organization. Further, in Fitzgerald, the rule-based approach assigns one set of resources to one group and another set of resources to another group. In the present invention, the policy data used to prepare a software package determines if a region is a candidate for receiving the software package and is not related to the resource needs of all the machines in the region.

Second, the combination of Uelpenich and Donohue, as proposed by the Examiner, fails to disclose the preparation of a base software package for the one or more regions based on dependency information indicating requisites for service provided by the software. The present application and Donohue were, at the time the present invention was made, both owned by IBM Corp. Thus, the use of Donohue as a reference is precluded under 35 U.S.C. §103(c).

Third, Uelpenich fails to disclose the preparation of a base software package for the one or more regions based on configuration information for each of the candidate regions. Uelpenich discloses policies available after software installation at an endpoint used to customize interaction between agents, gateways and endpoints. The present invention recites the preparation of a software package based on configuration information for candidate regions. Thus, the configuration information is for and utilized at the candidate regions, not at the endpoint, or target machine.

Further, the combination of Uelpenich, Fitzgerald and Donohue fails to disclose the customization of the base software package received at each of the candidate regions based on one or more of the three above-mentioned software package preparation techniques. The references fail

to disclose any customization of software after distribution to candidate regions but before distribution from the candidate regions to the target machines in the candidate regions of the distributed network. Accordingly, withdrawal of the rejection to claims 1, 9, 10 and 18-22 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 2 and 11 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue and Bourke-Dunphy, Applicants assert that such claims are patentable for at least the reasons that independent claims 1 and 10, from which claims 2 and 11 directly depend, are patentable. The patentability of independent claims 1 and 10 is described above. Applicants submit that claims 2 and 11 are patentable over the cited references not only due to their dependence on claims 1 and 10, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 2 and 11 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 3, 4, 8, 12, 13 and 17 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue, Bourke-Dunphy and Forbes, Applicants assert that such claims are patentable for at least the reasons that independent claims 1 and 10, from which claims 3, 4, 8, 12, 13 and 17 depend, are patentable. Applicants submit that claims 3, 4, 8, 12, 13 and 17 are patentable over the cited references not only due to their dependence on claims 1 and 10, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 3, 4, 8, 12, 13 and 17 under 35 U.S.C. §103(a) is therefore respectfully requested.
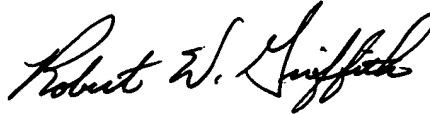
With regard to the rejection of claims 5 and 14 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue and Gendron, Applicants assert that such claims are patentable for at least the reasons that independent claims 1 and 10, from which claims 5 and 14 directly depend, are patentable. Applicants submit that claims 5 and 14 are patentable over the cited references not only due to their dependence on claims 1 and 10, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 5 and 14 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the rejection of claims 6, 7, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over Uelpenich in view of Fitzgerald, Donohue and Stupek, Applicants assert that such claims are patentable for at least the reasons that independent claims 1 and 10, from which claims

6, 7, 15 and 16 depend, are patentable. Applicants submit that claims 6, 7, 15 and 16 are patentable over the cited references not only due to their dependence on claims 1 and 10, but also because such claims recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 6, 7, 15 and 16 under 35 U.S.C. §103(a) is therefore respectfully requested.

In view of the above, Applicants believe that claims 1-22 are in condition for allowance, and respectfully request withdrawal of the §103(a) rejections.

Respectfully submitted,

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